UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.37
4 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 9

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Angola, Argentina, Australia*, Austria, Belarus, Benin, Brazil, Bulgaria, Cameroon*, Canada, Chile, Croatia*, Cyprus*, Czech Republic, Denmark, Dominican Republic, El Salvador, Ethiopia, Finland*, France, Gabon, Greece*, Honduras*, Israel*, Italy, Kenya*, Latvia*, Lithuania*, Madagascar, Mozambique, Nepal, Netherlands, Nicaragua, Peru*, Philippines, Poland*, Portugal*, Romania, Slovakia*, South Africa*, Slovenia*, Uganda and Zimbabwe:

1997/... The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)

The Commission on Human Rights,

Recalling its resolution 1996/43 of 19 April 1996 and other relevant resolutions and decisions adopted by organizations of the United Nations system, as well as by other competent forums,

---

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Emphasizing, in view of the continuing challenges presented by HIV/AIDS, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all to reduce vulnerability to HIV/AIDS and to prevent HIV/AIDS-related discrimination and stigma,

Welcoming the report of the Secretary-General on the Second International Consultation on HIV/AIDS and Human Rights (E/CN.4/1997/37), which presents the outcome of the Consultation, including the Guidelines recommended by the expert participants for States on the protection and promotion of fundamental rights and freedoms in the context of HIV/AIDS, and strategies for their dissemination and implementation,

1. Invites all States to consider the Guidelines recommended by the experts who participated in the Second International Consultation on HIV/AIDS and Human Rights, as contained in document E/CN.4/1997/37 and summarized in the annex to the present resolution;

2. Calls upon the United Nations High Commissioner for Human Rights, the Joint United Nations Programme on HIV/AIDS (UNAIDS), its co-sponsors and other partners to provide technical cooperation to States, upon the request of Governments when required, from within existing resources, with regard to the promotion and protection of human rights in the context of HIV/AIDS;

3. Requests the Secretary-General to solicit the opinion of Governments, specialized agencies, and international and non-governmental organizations and to prepare for consideration of the Commission at its fifty-fifth session a progress report on the follow-up to the present resolution.

Annex

Guideline 1: States should establish an effective national framework for their response to HIV/AIDS which ensures a coordinated, participatory, transparent and accountable approach, integrating HIV/AIDS policy and programme responsibilities across all branches of government.

Guideline 2: States should ensure, through political and financial support, that community consultation occurs in all phases of HIV/AIDS policy design, programme implementation and evaluation and that community organizations are enabled to carry out their activities, including in the field of ethics, law and human rights, effectively.

Guideline 3: States should review and reform public health laws to ensure that they adequately address public health issues raised by HIV/AIDS, that their provisions applicable to casually transmitted diseases are not inappropriately applied to HIV/AIDS and that they are consistent with international human rights obligations.

Guideline 4: States should review and reform criminal laws and correctional systems to ensure that they are consistent with international human rights obligations and are not misused in the context of HIV/AIDS or targeted against vulnerable groups.

Guideline 5: States should enact or strengthen anti-discrimination and other protective laws that protect vulnerable groups, people living with HIV/AIDS and people with disabilities from discrimination in both the public and private sectors, ensure privacy and confidentiality and ethics in research involving human subjects, emphasize education and conciliation, and provide for speedy and effective administrative and civil remedies.

Guideline 6: States should enact legislation to provide for the regulation of HIV-related goods, services and information, so as to ensure widespread availability of qualitative prevention measures and services, adequate HIV prevention and care information and safe and effective medication at an affordable price.

Guideline 7: States should implement and support legal support services that will educate people affected by HIV/AIDS about their rights, provide free legal services to enforce those rights, develop expertise on HIV-related legal

issues and utilize means of protection in addition to the courts, such as offices of ministries of justice, ombudspersons, health complaint units and human rights commissions.

Guideline 8: States, in collaboration with and through the community, should promote a supportive and enabling environment for women, children and other vulnerable groups by addressing underlying prejudices and inequalities through community dialogue, specially designed social and health services and support to community groups.

Guideline 9: States should promote the wide and ongoing distribution of creative education, training and media programmes explicitly designed to change attitudes of discrimination and stigmatization associated with HIV/AIDS to understanding and acceptance.

Guideline 10: States should ensure that government and private sectors develop codes of conduct regarding HIV/AIDS issues that translate human rights principles into codes of professional responsibility and practice, with accompanying mechanisms to implement and enforce these codes.

Guideline 11: States should ensure monitoring and enforcement mechanisms to guarantee the protection of HIV-related human rights, including those of people living with HIV/AIDS, their families and communities.

Guideline 12: States should cooperate through all relevant programmes and agencies of the United Nations system, including UNAIDS, to share knowledge and experience concerning HIV-related human rights issues and should ensure effective mechanisms to protect human rights in the context of HIV/AIDS at the international level.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.38
7 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 19

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF

Argentina, Australia*, Austria, Belarus, Bosnia and Herzegovina*, Canada, Côte d'Ivoire*, Cyprus*, Denmark, Finland*, France, Georgia*, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Liechtenstein*, Luxembourg*, Madagascar, Netherlands, Portugal*, Republic of Korea, Romania*, Senegal*, Slovenia*, Spain*, Sweden*, Switzerland*, the former Yugoslav Republic of Macedonia* and Venezuela*: draft resolution

1997/... Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief

The Commission on Human Rights,

Recalling that all States have pledged themselves, under the Charter of the United Nations, to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling also, General Assembly resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

---

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling article 18 of the International Covenant on Civil and Political Rights,

Emphasizing that the right to freedom of thought, conscience, religion and belief is far-reaching and profound, and that it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others,

1. Takes note of the report of the Special Rapporteur on religious intolerance (E/CN.4/1997/91 and Add.1);

2. Expresses grave concern at and condemns all instances and forms of hatred or intolerance on the grounds of religion or belief;

3. Urges States:

(a) To ensure that their constitutional and legal systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without discrimination, including the provision of effective remedies in cases where the right to freedom of religion or belief is violated;

(b) To ensure, in particular, that no one within their jurisdiction is deprived of the right to life or the right to liberty and security of person because of religion or belief, or is subjected to torture or arbitrary arrest or detention on that account;

(c) In conformity with international standards of human rights, to take all necessary action to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief;

(d) To recognize, as provided in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes;

(e) To ensure that, in the course of their official duties, members of law enforcement bodies, civil servants, educators and other public officials respect different religions and beliefs and do not discriminate on the grounds of religion or belief;

(f) In accordance with their national legislation and in conformity with international human rights standards, to exert their utmost efforts to ensure that religious places, sites and shrines are fully respected and protected;

(g) To oppose acts of religious intolerance which violate the human rights of women and discriminate against women;

(h) To promote and encourage through the educational system and by other means, understanding, tolerance and respect in matters relating to freedom of religion or belief;

4. Emphasizes that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion;

5. Encourages the continued efforts on the part of the Special Rapporteur appointed to examine incidents and governmental actions in all parts of the world that are incompatible with the provisions of the Declaration and to recommend remedial measures as appropriate;

6. Stresses the need for the Special Rapporteur to apply a gender perspective, including the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations;

7. Calls upon all Governments to cooperate with the Special Rapporteur on religious intolerance and to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate even more effectively;

8. Invites the Special Rapporteur, in carrying out his mandate, to continue to bear in mind the need to be able to respond effectively to credible and reliable information that comes before him, to seek the views and comments of the Government concerned on any information which he intends to include in his report, and to continue to carry out his work with discretion and independence;

9. Recognizes that the exercise of tolerance and non-discrimination by all elements of society is necessary for the full realization of the aims of the Declaration;

10. Welcomes and encourages the efforts of non-governmental organizations and religious bodies and groups to promote the implementation of the Declaration and invites them to consider what further contribution they could make to its implementation and dissemination in all parts of the world;

11. Considers it desirable to enhance the promotional and public information activities of the United Nations in matters relating to freedom of religion or belief and to ensure that appropriate measures are taken to this end, including the dissemination, as a matter of high priority, of the text of the Declaration by United Nations information centres, as well as by other interested bodies;

12. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to enable him to carry out his mandate, to submit an interim report to the General Assembly at its fifty-second session and to report to the Commission at its fifty-fourth session;

13. Decides to continue its consideration of the question at its fifty-fourth session under the agenda item entitled "Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief".

UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.39
7 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 16

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SEVENTH SESSION

Ireland: draft decision

1997/... Human rights of persons with disabilities

At its ... meeting, on ... April 1997 the Commission on Human Rights, reaffirming its resolution 1996/27 of 19 April 1996 on the human rights of persons with disabilities, in particular the requests to the Secretary-General contained therein, noted the report of the Special Rapporteur on disability of the Commission for Social Development (A/52/56, annex) and decided to resume consideration of this question at its fifty-fourth session and to invite the Special Rapporteur on disability to be present on that occasion.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.40
7 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Australia*, Austria, Belgium*, Bulgaria, Canada, Czech Republic, Denmark, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Luxembourg*, Netherlands, Norway*, Portugal*, Romania*, San Marino*, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland* and United Kingdom of Great Britain and Northern Ireland: draft resolution

1997/... Situation of human rights in Nigeria

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Mindful that Nigeria is a party to the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination,

---

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling previous resolutions of the General Assembly and the Commission on Human Rights, most recently General Assembly resolution 51/109 of 12 December 1996 and Commission on Human Rights resolution 1996/79 of 23 April 1996,

1. Welcomes

(a) The report on the situation of human rights in Nigeria submitted jointly by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers and the addendum thereto (E/CN.4/1997/62 and Add.1);

(b) The declared commitment by the Government of Nigeria to civilian rule, multi-party democracy and freedom of assembly, press and political activity, and recalling in this regard the declaration by the Government of 1 October 1995;

(c) The commitment by the Government of Nigeria to remove all military personnel from the Civil Disturbances Tribunal and the special tribunals, to establish the opportunity for appeal and to re-establish the system of habeas corpus, and to allow the National Human Rights Commission to investigate human rights abuses;

(d) The resumption of dialogue between Nigeria and the Commonwealth;

2. Expresses its deep concern

(a) At continuing violations of human rights and fundamental freedoms in Nigeria, including arbitrary detention, as well as failure to respect due process of law;

(b) That additional persons among those detained in Nigeria are to be tried by the same flawed judicial process which led to the arbitrary execution of Ken Saro-Wiwa and his associates;

(c) That the Government of Nigeria, despite earlier commitments, refuses to cooperate with the Commission, which prevented the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers from visiting Nigeria;

(d) That the absence of representative government in Nigeria has led to violations of human rights and fundamental freedoms and is contrary to the popular support for democratic government as evidenced in the 1993 elections;

3. Calls upon the Government of Nigeria

(a) To ensure the observance of human rights and fundamental freedoms, including by respecting the right to life, by releasing all political

prisoners, trade union leaders, human rights advocates and journalists currently detained, by improving conditions of detention and by guaranteeing respect for the rights of individuals, including persons belonging to minorities;

(b) To abide by its freely undertaken obligations under the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other human rights instruments, including the African Charter on Human and Peoples' Rights, and notes with interest in this regard the recommendations of the Human Rights Committee to the Government of Nigeria (CCPR/C/79/Add.65);

(c) To ensure that all trials are held fairly and promptly and in strict conformity with international human rights standards;

(d) To ensure the independence of the National Human Rights Commission;

(e) To implement fully its interim undertakings to the Secretary-General without further delay and to respond in full to the recommendations of the Secretary-General's mission to Nigeria;

(f) To cooperate fully with the Commission and its mechanisms;

(g) To take concrete steps to restore democratic government without delay;

4. Decides

(a) To invite the Chairman of the Commission to appoint, after consultations with the Bureau, a special rapporteur on the situation of human rights in Nigeria, with a mandate to establish direct contacts with the authorities and the people of Nigeria, and requests that the special rapporteur report to the General Assembly at its fifty-second session and to the Commission at its fifty-fourth session, on the basis of any information which might be gathered, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General, in the discharge of his good offices mandate and in cooperation with the Commonwealth, to continue further discussions with the Government of Nigeria and to report on progress in the implementation of the present resolution and possibilities for the

international community to lend practical assistance to Nigeria in achieving the restoration of democratic rule and the full enjoyment of human rights and fundamental freedoms;

(c) To continue its consideration of the situation of human rights and fundamental freedoms in Nigeria at its fifty-fourth session under the agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.41
7 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 16

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-EIGHTH SESSION

Cuba, Netherlands: draft resolution

1997/... Contemporary forms of slavery

The Commission on Human Rights,

Gravely concerned at modern manifestations of slavery, the slave trade and slavery-like practices,

Recalling its previous resolutions on the subject, especially resolution 1996/61 of 23 April 1996, and taking note of the resolutions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the subject, including resolutions 1996/12 of 23 August 1996 and 1996/18 of 29 August 1996,

Bearing in mind that the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1949, as well as article 4 of the Universal Declaration of Human Rights and article 8 of the International Covenant on Civil and Political Rights provide, inter alia, that no one shall be held in slavery or servitude,

1. Welcomes the work of the Working Group on Contemporary Forms of Slavery and takes note of its recommendations;

2. Expresses its grave concern at manifestations of contemporary forms of slavery, inter alia those reported to the Working Group;

3. Requests the Secretary-General to invite those eligible States that have not yet ratified or acceded to the conventions on slavery to consider doing so as soon as possible;

4. Calls upon States:

(a) To consider taking appropriate action for the protection of groups of persons particularly vulnerable to slavery and slavery-like practices, such as children and women, including migrant women;

(b) To consider adopting legal and administrative measures for the protection, rehabilitation and reintegration of victims of contemporary forms of slavery;

(c) That have not yet done so to consider ratifying the pertinent international instruments, including the Forced Labour Convention, 1930 (No. 29) and the Minimum Age Convention, 1973 (No. 138) of the International Labour Organization;

5. Requests the Secretary-General:

(a) To continue the examination of the reliability of allegations regarding the removal of organs and tissues of children and adults for commercial purposes and to include, in an updated report, an analysis of this question, to be submitted to the Commission at its fifty-fifth session in order to enable the Commission to decide whether continued attention to this question is required;

(b) To transmit to Governments an appeal for contributions to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery;

(c) To designate the Office of the High Commissioner/Centre for Human Rights as the focal point for the coordination of activities in the United Nations system for the suppression of contemporary forms of slavery;

5. Decides to resume consideration of this question at its fifty-fifth session.

UNITED
NATIONS

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.42
8 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 16

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-EIGHTH SESSION

Argentina, Canada, Chile, Croatia*, Czech Republic, Denmark, Dominican Republic, El Salvador, Estonia*, Finland*, Germany, Hungary*, Iceland*, Italy, Madagascar, Norway*, Poland*, Portugal*, Romania*, Slovakia*, Slovenia*, South Africa, Sweden*, Switzerland* and Uruguay: draft resolution

1997/.. Minimum humanitarian standards

The Commission on Human Rights,

Gravely concerned at the large number of situations where internal violence causes extensive suffering and breaches of the principles of humanity and undermines the protection of human rights,

Conscious of the desirability of continuing to study the principles of humanity governing the behaviour of all persons, groups and public authorities,

Emphasizing, in this regard, the need to identify and implement measures to prevent violations and abuses of human rights and fundamental freedoms, in particular the right to life and integrity of the individual,

---

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling its resolution 1996/26 of 19 April 1996 and welcoming the report of the International Workshop on Minimum Humanitarian Standards organized in Cape Town, South Africa from 27 to 29 September 1996 (E/CN.4/1997/77/Add.1, annex), by the Governments of Denmark, Finland, Iceland, Norway, Sweden and South Africa, in cooperation with the International Committee of the Red Cross, to address the issue of minimum humanitarian standards applicable in all situations,

1. Recognizes the desirability of identifying principles applicable to all situations in a manner consistent with international law, including the Charter of the United Nations;

2. Also recognizes in this regard the vital importance of the existence in each country of appropriate national legislation for dealing with such situations in a manner consistent with the rule of law;

3. Invites all States to consider reviewing their national legislation relevant to situations of public emergency with a view to ensuring that it meets the requirements of the rule of law and that it does not involve discrimination on the grounds of race, colour, sex, language, religion or social origin;

4. Requests the Secretary-General, in coordination with the International Committee of the Red Cross and within existing resources, to submit to the Commission at its fifty-fourth session an analytical report on the issue of fundamental standards of humanity, taking into consideration in particular the issues raised in the report of the International Workshop on Minimum Humanitarian Standards held in Cape Town, South Africa from 27 to 29 September 1996, and identifying, inter alia, common rules of human rights law and international humanitarian law that are applicable in all circumstances;

5. Also requests the Secretary-General, in preparing his study, to seek the views of and information from Governments, United Nations bodies, in particular the Office of the United Nations High Commissioner for Refugees, the human rights treaty bodies and intergovernmental organizations, as well as regional organizations and non-governmental organizations.

- - - - -

UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.43
7 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 16

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SEVENTH SESSION

Australia,* Austria, Belarus, Belgium,* Brazil, Bulgaria, Canada, Czech Republic, Denmark, El Salvador, Estonia,* Finland,* France, Gabon, Germany, Greece,* Honduras,* India, Ireland, Italy, Madagascar, Netherlands, New Zealand,* Nicaragua, Norway,* Philippines, Portugal,* Romania,* Slovakia,* Slovenia,* Spain,* Ukraine, United Kingdom of Great Britain and Northern Ireland and Uruguay: draft resolution

1997/... Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Commission on Human Rights,

Reaffirming its resolution 1996/25 of 19 April 1996,

Recalling the terms of reference of the Sub-Commission on Prevention of Discrimination and Protection of Minorities as defined by the Commission and its particular responsibilities established, inter alia, in Commission resolutions 8 (XXIII) of 16 March 1967 and 17 (XXXVII) of 10 March 1981, Economic and Social Council resolutions 1235 (XLII) of 6 June 1967 and 1503 (XLVIII) of 27 May 1970, and the relevant resolutions of the General Assembly,

---

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling also its resolution 1992/66 of 4 March 1992, in which it provided certain guidelines for the work of the Sub-Commission, and Economic and Social Council resolution 1991/32 of 31 May 1991 on strengthening the independence of the expert members of the Sub-Commission,

Taking note of the report of the working group on the methods of work of the Sub-Commission (E/CN.4/Sub.2/1994/3) and of Sub-Commission decision 1994/117 of 26 August 1994,

Taking note also of the reports of the Sub-Commission and its Chairman on the forty-eighth session (E/CN.4/1997/2-E/CN.4/Sub.2/1996/41 and E/CN.4/1997/79),

1. Reaffirms that the Sub-Commission on Prevention of Discrimination and Protection of Minorities can best assist the Commission on Human Rights by providing it with recommendations based on the views and perspectives of independent experts, which should be appropriately reflected in the report of the Sub-Commission, as well as in the expert studies carried out under its auspices;

2. Expresses its appreciation of the steps undertaken by the Sub-Commission to reform and improve its methods of work, in particular the rationalization of its draft provisional agenda for its forty-ninth session, the initiation of a study on how to revise its work schedule for improved consultation among members (decision 1996/112), the decision to limit the initiation of new studies (decision 1996/113), the compilation of the existing rules of procedure and procedural questions to be resolved (decision 1996/114) and the decision to avoid duplication with the work of the Commission on Human Rights by not taking action during its forty-ninth session on human rights situations under consideration in the public procedures of the Commission (decision 1996/115);

3. Requests the Sub-Commission to continue thoroughly reviewing its working methods with a view to improving further its efficiency and avoiding duplication with the Commission and its mechanisms, taking into account the views of Member States, and, in this context, calls upon the Sub-Commission

(a) To focus on its primary role as an advisory body of the Commission on Human Rights;

(b) To refrain henceforth from duplicating action by the Commission on Human Rights with regard to country situations under consideration in the public procedures of the Commission unless, in exceptional cases, new and particularly grave circumstances arise;

(c) To give particular attention to the process of selection of studies and, when choosing subjects for study, to take into account recommendations of the Commission on Human Rights and the treaty bodies, explaining the choice made so as to enable the Commission adequately to assess the need for a specific study;

(d) To improve further the independence and the impartiality of Sub-Commission members, in particular in discussions concerning the situation in a State of which a member of the Sub-Commission is a national;

(e) To facilitate efficient and effective participation of non-governmental organizations;

(f) To improve consultations with special rapporteurs undertaking studies for the Sub-Commission;

(g) Further to enhance cooperation with mechanisms of the Commission and, within their competence, with all relevant bodies, including the human rights treaty bodies and relevant United Nations research institutions;

(h) To focus strictly on questions relating to human rights in accordance with its mandate;

4. Calls upon the Sub-Commission to devote sufficient time at its forty-ninth session to the discussion of its working methods and to prepare specific recommendations on that issue for consideration by the Commission on Human Rights;

5. Reaffirms that members of the Sub-Commission should discharge their functions in their personal capacity and calls upon States to nominate as members and alternates independent experts of recognized competence in the field of human rights, as well as to respect fully the independence of elected members and alternates;

6. Requests States nominating candidates for the Sub-Commission to submit nominations sufficiently early to enable the members of the Commission to assess thoroughly the qualifications of the nominees;

7. Requests the Secretary-General to continue to give strong support to the Sub-Commission and, in particular, to ensure that Sub-Commission documents are available in all the official United Nations languages in good time before the session;

8. Also requests the Secretary-General in responding to requests from the Sub-Commission to solicit information from Governments and intergovernmental and non-governmental organizations, to agree to such requests only after they have been approved by the Commission on Human Rights;

9. Invites the Chairman of the Commission to inform the Sub-Commission on the debate under this item;

10. Requests the Chairman of the Sub-Commission at its forty-ninth session to report to the Commission at its fifty-fourth session on significant aspects of the work of the Sub-Commission.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.44
7 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 16

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-EIGHTH SESSION

Cuba, Iran (Islamic Republic of)*, Morocco*, Nigeria*: draft resolution

1997/... The relationship between the enjoyment of economic, social and cultural rights and the right to development, and the working methods and activities of transnational corporations

The Commission on Human Rights,

Recalling the provisions of the Charter which establish that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights for all,

Reaffirming the commitment of States Members of the United Nations, contained in Article 56 of the Charter, to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55 of the Charter,

---

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Conscious that the Universal Declaration of Human Rights provides that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized,

Reaffirming the Declaration on Social Progress and Development proclaimed by the General Assembly in its resolution 2542 (XXIV) of 11 December 1969, the Declaration and Programme of Action on the Establishment of a New International Economic Order proclaimed by the General Assembly in its resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974, the Charter of Economic Rights and Duties of States adopted by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, the Declaration of the Principles of International Cultural Cooperation proclaimed by the General Conference of the United Nations Educational, Scientific and Cultural Organization in 1966 and General Assembly resolution 1803 (XVII) of 14 December 1962, entitled "Permanent sovereignty over natural resources",

Mindful that in the Vienna Declaration and Programme of Action (A/CONF.157/23) the World Conference on Human Rights reaffirmed the right to development as a universal and inalienable right and an integral part of all fundamental human rights, reaffirmed that the human person was the central subject of development and underlined the need for a concerted effort to ensure recognition of economic, social and cultural rights at the national, regional and international levels,

Noting that the Working Group on the Right to Development identified the concentration of economic and political power as one of the obstacles to the realization of the right to development,

Noting also that lasting progress towards the implementation of the right to development requires effective development policies at the national level, as well as equitable economic relations and a favourable economic environment at the international level,

Taking into account that the Working Group on the Right to Development recommended the adoption of new international legislation and the creation of effective international institutions to regulate the activities of transnational corporations and banks, and in particular to resume the multilateral negotiations on a code of conduct for transnational corporations,

Bearing in mind the Tripartite Declaration concerning Multinational Enterprises and Social Policy adopted by the International Labour Conference,

Recognizing that the activities of the various organizations in the United Nations system should be closely interrelated and that it is necessary to draw on all the efforts made in the various disciplines relating to the human person in order to promote all human rights effectively,

Recalling its resolutions 1989/15 of 2 March 1989, 1990/17 and 1990/18 of 23 February 1990, 1991/13 of 22 February 1991, 1992/9 of 21 February 1992, 1993/12 of 26 February 1993, 1994/11 of 23 February 1994, 1995/13 of 24 February 1995 and 1996/15 of 11 April 1996,

Taking into account the background document (E/CN.4/Sub.2/1995/11) prepared by the Secretary-General in accordance with Sub-Commission resolution 1994/37 and the report (E/CN.4/Sub.2/1996/12 and Corr.1) submitted by the Secretary-General in accordance with Sub-Commission resolution 1995/31,

Taking note of resolution 1996/39 of 30 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

1. Reaffirms the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986, underlining its multidimensional, integrating and dynamic character which favours a partnership for development and constitutes a relevant framework for international cooperation and national action aiming at the universal and effective respect of all human rights in their universality, indivisibility and interdependence;

2. Affirms that the global and multidimensional approach defined in the Declaration on the Right to Development should provide the basis for the work undertaken on the relationship between the enjoyment of human rights and the working methods and activities of transnational corporations;

3. Decides to establish, for a three-year period, an open-ended working group of the Commission with the following mandate:

(a) To identify and examine the adverse effects of the methods of work and activities of transnational corporations on the enjoyment of economic, social and cultural rights and the right to development;

(b) To investigate, monitor, examine and receive communications and gather information on the adverse effects of the methods of work and activities of transnational corporations on the enjoyment of economic, social and cultural rights and the right to development;

(c) To make recommendations and proposals aimed at regulating the methods of work and activities of transnational corporations in order to ensure that these are in keeping with the economic and social objectives of the countries in which the transnational corporations operate, and to promote the enjoyment of economic, social and cultural rights and the right to development;

(d) To prepare each year a list of countries and transnational corporations, indicating, in United States dollars, their gross national product or financial turnover, respectively;

and to request it to submit its initial report to the Commission at its fifty-fourth session;

4. Requests the Secretary-General to invite Governments, United Nations bodies and agencies, intergovernmental organizations and non-governmental organizations, in particular development organizations, to submit to the working group information on the adverse effects of the working methods and activities to transnational corporations on the enjoyment of economic, social and cultural rights and the right to development;

5. Requests the Secretary-General to ensure that the working group receives all necessary assistance, in particular the staff and resources required to fulfil its mandate;

6. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1997/... of ... 1997 and resolution 1996/39 of 30 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the decision of the Commission to establish, for a three-year period, an open-ended working group of the Commission with the following mandate:

(a) To identify and examine the adverse effects of the methods of work and activities of transnational corporations on the enjoyment of economic, social and cultural rights and the right to development;

(b) To investigate, monitor, examine and receive communications and gather information on the adverse effects of the methods of work and activities of transnational corporations on the enjoyment of economic, social and cultural rights and the right to development;

(c) To make recommendations and proposals aimed at regulating the methods of work and activities of transnational corporations in order to ensure that these are in keeping with the economic and social objectives of the countries in which the transnational corporations operate, and to promote the enjoyment of economic, social and cultural rights and the right to development;

(d) To prepare each year a list of countries and transnational corporations, indicating, in United States dollars, their gross national product or financial turnover, respectively;

and request it to submit its initial report to the Commission at its fifty-fourth session. The Council approves the Commission's request to the Secretary-General:

(a) To invite Governments, United Nations bodies and agencies, intergovernmental organizations and non-governmental organizations, in particular development organizations, to submit to the working group information on the adverse effects of the working methods and activities of transnational corporations on the enjoyment of economic, social and cultural rights and the right to development;

(b) To provide the necessary human and financial resources to enable the working group to fulfil its mandate."